

REMARKS

Reconsideration is respectfully requested in light of the foregoing amendment and the remarks that follow.

Claims 1-3 and 5 are pending in the application. Claim 4 has been cancelled and the subject matter included in claim 1, as amended. Claim 5 has been amended to be consistent with claim 1 as amended. In addition, the claims have been amended to address the formality issues raised by the Examiner. Support for the amendatory change is found in Table 5.

Receipt of the copies of the initialed PTO/SB/08A (08-00) is noted with appreciation.

The objection to the claims is noted and the claims have been amended in a manner similar to that suggested by the Examiner.

The Examiner is requested to hold in abeyance the requirement that the specification be amended to more clearly identify the presence of Trademarks and to include generic terminology.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

Reconsideration is respectfully requested relative to "highly dispersed", the term appears to be accepted in the art. See, for example, U.S. Patent No. 4,298,387.

"Tamped density" is a common property and can be measured in a variety of fashions. Applicants indicate their preferred technique.

In light of the points raised, reconsideration and withdrawal of the rejection are respectfully requested.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as anticipated by Hasenzahl et al. (Publication No. 2002/0197311). Applicants respectfully traverse.

For a reference to be anticipatory, it must teach each and every element required by the claim. Here, the Examiner appears to be of the opinion that the characteristic "silicon dioxide

contains a maximum of 3.0 wt.% of water-wettable contents" would inherently be met. It is not seen why this would be so. No hydrophobic product is taught.

While paragraph [0025] of the Hasenzahl et al patent mentions the use of surface modifying reagents. There is no detailed description of the process. Please note the surface modifying reagent concentration appears critical to the outcome. The "comparative products" described on page 24 of the specification starting at line 20 are prepared with ten percent less dimethyldichlorosilane. This amount leads to two to three fold differences in the water wettable contents (%) values for the products. See Table 6. Accordingly, it is not seen how the mere performance of the process described in paragraph [0025] would ultimately result in the claimed product. (Specific concentrations of the surface modifying agent are required to achieve the claimed water wettable contents (%) values. These values are not taught).

In light of the above, it is not seen why the burden should be shifted to Applicants to establish product differences when there is no reasonable expectation that a product prepared by the disclosed process of paragraph [0025] would be the same as that claimed.

Since a proper prima facie case has not been established, withdrawal of the rejection is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance. A notice to that effect is respectfully requested.

Respectfully submitted,



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